

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Crl.Rev.No.245 of 2007

Date of Decision:- 05.04.2007

Gurmail Singh

....Petitioner(s)

through
Mr.J.S.Bedi, Advocate

vs.

State of Haryana

....Respondent(s)

through
Mr.R.D.Sharma, DAG, Haryana.

CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

- 1) Whether Reporters of the local papers may be allowed to see the judgment?
- 2) To be referred to the Reporters or not?
- 3) Whether the judgment should be reported in the Digest?

SURYA KANT, J.

This revision petition is directed against the order dated 27.1.2007 passed by the learned Additional Sessions Judge whereby the petitioner has been charge-sheeted under Section 7/13 of the Prevention of Corruption Act, 1988.

Though initially various contentions were raised on behalf of the petitioner, however, finally he confined the same to the limited issue that at the time when the issue regarding framing of charges was being considered by the trial Court, not only the petitioner had argued but had also filed “written submissions” in which various other issues were specifically raised. In addition, thereto, various enquiry reports submitted by the police Authorities, exonerating the petitioner in the departmental proceedings, were also referred to. However, the learned trial Court vide the impugned order though has dealt with the issue regarding competence of the

Sanctioning Authority but the remaining contentions have not been taken notice of.

Trues it is that at the time of framing of charges, the Court is only required to form a *prima facie* opinion. However, such opinion is formed on the basis of material placed on record along with the report under Section 173 Cr.P.C.

In the present case, the learned Additional Sessions Judge has dealt with the petitioner's contention regarding the competence of the Sanctioning Authority, however, rest of his contentions, as find mentioned in the written arguments, a copy of which has been placed on record as Annexure P-19, have not been dealt with while forming the *prima facie* opinion.

Consequently, this revision petition is partly allowed only to the limited extent that the impugned order dated 27.1.2007 is set aside with a direction to the learned Special Judge-cum-Additional Sessions Judge, Kaithal to consider the petitioner's other contentions also and thereafter only to form an opinion as to whether or not the petitioner is required to be charge-sheeted.

As an abundant caution, it is clarified that this order shall not be construed to mean as if the petitioner's contentions contained in the written arguments have been *prima facie* accepted by this Court or that the learned Special Judge is obligated to deliver a 'Judgment' at the above-stated stage.

Disposed of.

April 05, 2007
poonam

(SURYA KANT)
JUDGE